

# EXHIBIT D

## EXHIBIT A

**The New York Times**229 WEST 43 STREET  
NEW YORK, N.Y. 10036

This letter sets forth the agreement between you and The New York Times Company ("The Times") for freelance photography services you may be commissioned to provide on assignment to the Newspaper, as defined below.

1. (a) The Times will pay you a day rate as agreed upon by you and The Times. Payment will be made for acceptable material on submission of an invoice within thirty (30) days of completion of the assignment. Any terms appearing in your invoice that add to or change the terms of this agreement will not be binding.
- (b) The Times will reimburse you for reasonable expenses provided that you submit documentation acceptable to The Times within thirty (30) days of incurring the expenses. The Times determines the rate at which film and mileage are reimbursed.
2. At the conclusion of each assignment, you will deliver to The Times all film and/or recorded images resulting from the assignment (the "Work"), as well as complete and accurate information for captions. The Times will credit you on published Work according to its crediting policies. The Times is not obligated to publish what you submit and will not be responsible for the loss or damage of Work.
3. You acknowledge that the Work has been commissioned by The Times as a contribution to a collective work and that The Times's interest therein arises as a "work for hire" under the Copyright Act. The Times hereby assigns to you a joint copyright interest in and to the Work such that the worldwide copyright in all Works created pursuant to this agreement shall be deemed joint works owned by The Times and you. In the event the Work is deemed not to be a "work for hire," you hereby assign to The Times a joint copyright interest in and to the Work to effect joint copyright ownership.
4. Subject to the limitations set forth in paragraph 5 below, as joint copyright owners of the Work, The Times and you shall each have the irrevocable, non-exclusive right to exercise any and all rights granted by the United States Copyright Act, including, but not limited to, the right to reproduce, display, distribute, sell and transmit the Work throughout the world, in any media now known or later developed, to sublicense the foregoing rights, and to create derivative works; provided that neither you nor The Times shall have the right to grant rights in the Work which would purport to restrict the rights of the other party under this agreement. In exercising your rights hereunder, you may not use the name of The New York Times or The International Herald Tribune.
5. You agree that you will not exercise any of your rights under paragraph 4 above with respect to any Work published in the printed edition of either The New York Times or The International Herald Tribune, or any successor newspapers thereto (collectively, the "Newspapers", individually, the "Newspaper"), until ten (10) days after such publication (the "First Publication Date"). With respect to any Work that The Times has *not* published in a Newspaper, you agree that you will not exercise any of your rights under paragraph 4 above until twenty-four (24) hours following the First Publication Date of another image from that assignment.
6. Notwithstanding that The Times and you own a joint copyright in the Work, neither party shall have any obligation to share revenues generated from its exercise of the foregoing rights, except that The Times will pay you fifty percent (50%) of the net receipts (that is, receipts after deduction of syndication expenses) from the syndication of the Work (the "Syndication Fee"). Where the Work is syndicated by The Times for use in an advertisement or promotion, in lieu of fifty percent (50%) of the net receipts, The Times will pay you a fixed Syndication Fee set in accordance with its internal conflict of interest standards. The Work is "syndicated" when it is sold individually, and not as part of the Newspaper or along with other works published in the Newspaper, to a third party, for republication in any form. Thus, for example, the inclusion of the Work in The New York Times News Service is not a syndication for which compensation would be owed under this paragraph.
7. (a) You agree that with regard to any assignment you carry out for The Times, you will take care to avoid conflicts of interest or the appearance of conflict, and you will otherwise comply with the applicable provisions of the policies on Ethical Journalism set forth at <http://www.nytc.com/company-properties-times-coe.html>. For example, in connection with any assignment for The Times, you will not accept free transportation, gifts, junkets, or commissions/assignments from current or potential news sources or subjects. Prior to accepting an assignment, you agree to disclose to The Times any financial interest you may have in the subject matter of that assignment.
- (b) You will not use your association with The Times to advertise or otherwise promote or identify yourself in any speaking engagements or public appearances you may have without the prior permission of The Times.
8. You represent and warrant that you will not sign or otherwise be a party to any agreement, release, waiver or other document as a condition to shooting an assignment. You further represent and warrant that you are entitled to grant to The Times the foregoing rights in and to all Work submitted to The Times and that the Work will be original and unaltered and that it will not infringe another's

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entered 04/14/04

copyright or trademark, violate any person's right of privacy or contain libelous or otherwise unlawful material. You agree to cooperate fully with The Times in responding to and defending against any third-party claims relating to the Work. Your obligations under this paragraph and paragraph 7 will survive any termination of this agreement.

9. You are an independent contractor, and as such you do not receive any benefits as an employee of The Times. The Times will provide you with IRS form 1099 at the end of the year reflecting all amounts paid to you for that year.

10. This letter constitutes the entire agreement between you and The Times regarding your freelance photography services from this date forward, and supersedes all prior agreements on this subject matter. Either party may terminate this agreement upon thirty (30) days written notice to the other. No amendment or waiver shall be valid unless in writing and signed by both you and The Times.

11. This agreement has been made in accordance with New York State laws and will be construed and enforced under those laws. Any action to enforce this agreement shall be brought exclusively in the federal or state courts in the City of New York.

If the foregoing terms and conditions are acceptable, please sign and date a copy of this letter and return it to The Times at your earliest convenience. The FAX number is 212-556-7149.

Sincerely,

Wm. E. Schmidt

William E. Schmidt  
Associate Managing Editor, The New York Times  
Newspaper Division of The New York Times Company

Please provide the following information (Please PRINT clearly).	
Full Name	ROBERT STOLARIK
Byline (if different)	
Social Security (or EID)	079.52.4248
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Work Phone Number	
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Fax Number	
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Home Phone Number	646.837.0425
Other Contact Information	
Digital and Can Transmit?	YES

Accepted and Agreed to:	
By: <u>Robert Stolarik</u>	Date: <u>4.2.04</u>

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Stolarik, Robert